# IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

#### BEAUMONT DIVISION

KEVIN DEWAYNE MOORE §

VS. § CIVIL ACTION NO. 1:12cv149

FEDERAL BUREAU OF PRISONS §

### MEMORANDUM OPINION

Plaintiff Kevin DeWayne Moore, an inmate confined at the United States Penitentiary in Marion, Illinois, proceeding prose, filed the above-styled lawsuit. Plaintiff has filed a motion seeking leave to proceed in forma pauperis in this matter.

### Analysis

On April 26, 1996, the president signed into law the Prison Litigation Reform Act. Pub.L. No. 104-134, 110 Stat. 1321 (1996). 28 U.S.C. § 1915(g), which was created by the Act, prohibits prisoners from repeatedly filing frivolous or malicious complaints. Section 1915(g) provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [in forma pauperis] ... if the prisoner has, on three or more occasions ... brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Prior to the date on which plaintiff filed this complaint, courts had dismissed two lawsuits and one appeal filed by

plaintiff as frivolous or malicious. As a result, Section 1915(g) is applicable.

The allegations made in the complaint do not demonstrate plaintiff was in "imminent danger of serious physical injury" at the time this lawsuit was filed. Section 1915(g) therefore bars plaintiff from proceeding with this action on an *in forma* pauperis basis. This case will, accordingly, be dismissed.

## Conclusion

For the reasons set forth above, this lawsuit will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). An appropriate final judgment shall be entered.

SIGNED this the 25 day of May, 2012.

Thad Heartfield

United States District Judge

Moore v. 204th Dist. Ct., Dallas County, Tex., No. 08cv2281 (N.D. Tex. Sept. 29, 2009) (dismissed as frivolous); Moore v. U.S. Marshals Serv., No. 10cv1566 (S.D. Tex. May 17, 2010) (dismissed as malicious); Moore v. 204th Dist. Ct., Dallas County, Texas, 376 Fed.Appx. 426 (5th Cir. 2010) (appeal dismissed as frivolous).